

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

1264

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on 02/26/2009

Signature /Jamic Cameron/Typed or printed name Jamic Cameron

Application Number

09/477,991

Filed

January 5, 2000

First Named Inventor

Bryce A. Jones

Art Unit

2457

Examiner

Barbara N. Burgess

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐

applicant/inventor.

/Kyle J. Way/

Signature

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

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02/26/2009

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.

Submit multiple forms if more than one signature is required, see below.

☒*Total of 1 forms are submitted.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Bryce A. Jones	Confirmation No.: 1039
Application No.: 09/477,991	Group No.: 2457
Filed: January 5, 2000	Examiner: Barbara N. Burgess
For: METHOD AND APPARATUS FOR PROCESSING WEB CALLS IN A WEB CALL CENTER	

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Introductory Comments

In response to the advisory action dated January 29, 2009 (hereinafter “the advisory action”), the Applicant respectfully requests review of the final rejections in the above-identified application. No amendments are being filed with this request. A Notice of Appeal under 37 C.F.R. § 41.31(a)(1) is being filed herewith.

Claims 1-165 were previously canceled. Claims 166-185 currently stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2001/0038624 to Greenberg et al. (hereinafter “Greenberg III”) in view of U.S. Patent No. 6,744,761 to Neumann et al. (hereinafter “Neumann”). (Page 2 of the final Office action dated October 29, 2008, hereinafter “the final Office action”.) The Applicant respectfully disagrees with the rejection and believes such allegations represent clear error in establishing a *prima facie* rejection under 35 U.S.C. § 103. The Applicant thus respectfully requests review of the rejection for at least the following reasons.

Remarks

With respect to claims 166 and 176, the final Office action indicates that Greenberg teaches receiving a voice call from a user device *including the cookie*, specifically citing paragraphs [0076], [0083], [0125], and [0127]. (Page 2 of the final Office action.)

However, Greenberg III (U.S. Patent App. No. 09/771,993, now U.S. Patent No. 6,707,811) was filed on January 30, 2001, as a continuation-in-part of U.S. Patent App. No. 09/637,805, now U.S. Patent No. 6,791,974, filed on August 11, 2000 (hereinafter “Greenberg II”), which itself is a continuation-in-part of U.S. Patent App. No. 09/272,139, filed on March 19, 1999, abandoned (hereinafter “Greenberg I”). The Applicant respectfully notes that Greenberg II and Greenberg III were filed *after* the filing date of the present application (January 5, 2000). Thus, since only Greenberg I possesses a filing date predating the filing date of the present application, the Applicant respectfully asserts that any disclosure in Greenberg II and Greenberg III not disclosed in Greenberg I is not available as prior art to reject the claims of the present application. (Please see MPEP § 2136.03(IV).)

The final Office action further states that “[i]t’s the burden of the Applicant to show that Greenberg I does not disclose the cited portions of Greenberg III.” (Page 9 of the final Office action.)

In reply, the Applicant appended a copy of Greenberg I to the response dated December 29, 2008 to the final Office action. (Please see the copy of Greenberg I (i.e., Patent Application No. 09/272,139) submitted with the response of December 29, 2008.) The Applicant respectfully notes that none of the subject matter of paragraphs [0076], [0083], [0125], and [0127] of Greenberg III, employed for support in the final Office action, are present in Greenberg I. More specifically, Greenberg I (i.e., the only application of Greenberg I, II, and III whose filing date predates that of the present application) does not mention cookies at all, much less how the cookies may be employed in connection with a voice call.

In response, the advisory action indicates that “[n]ot only does Greenberg III teach[] receiving a voice call including a cookie, this is taught by cited reference Neuman. Neuman teaches handling, routing, and tracking voice calls using Voice over

IP. The MRS software analy[z]es the media type's address and content data and forms attribute data characterizing the call. This information *comes from a cookie*. The call center uses this information for routing purposes (column 1, lines 13-31, column 2, lines 10-14, column 9, lines 24-31, 55-67, column 9, lines 50-67, column 12, lines 39-57, Abstract)." (Continuation Sheet of the advisory action; emphasis supplied.)

The Applicant respectfully disagrees with the assertions presented in the advisory action. For one, whether Greenberg III teaches or suggests receiving a voice call including a cookie is irrelevant, as only Greenberg I exhibits a filing date predating the filing date of the present application, and Greenberg I does not include any reference to a cookie, as discussed above.

In response to the assertion that Neuman also teaches the voice call including the cookie of claim 1, the Applicant respectfully notes that the advisory action represents the first time such an assertion has been made. Thus, at least on this basis, the Applicant respectfully contends that the finality of the 35 U.S.C. § 103 rejection should be withdrawn.

Additionally, the Applicant respectfully contends that Neuman does not teach or suggest a voice call including a cookie, as set forth in claim 166. Neuman indicates that its Media Response System (MRS) software 540 analyzes an incoming media stream's type, as well as its address and content data to form attribute data characteristic of the media stream. (See column 9, lines 24-49.) Generally, the address data "may include an e-mail header, or ANI or DNIS information. Similarly, through co-operation with web server software 524, any media stream received through the world wide web may include information *similar to that contained* in an e-mail header in a web based form or *as part of a cookie* that has been gathered by web server software 524." (Column 9, lines 49-56; emphasis supplied.) Thus, while the information included in the address data of the incoming media stream may resemble information typically provided in a cookie, Neuman does not teach or suggest a voice call that includes a cookie, as set forth in claims 166 and 176.

Thus, in light of the foregoing, the Applicant respectfully contends that neither Neuman, nor the portions of Greenberg III available as prior art under 102(e)/103(a), teach or suggest receiving a voice call from a user device including the cookie, as set

forth in claims 166 and 176, and such indication is respectfully requested. As a result, the Applicant respectfully contends that claims 166 and 176 are allowable in view of the combination of Greenberg III and Neumann, and such indication is respectfully requested.

Claims 167-175 depend from independent claim 166, and claims 177-185 depend from independent claim 176, thus incorporating the provisions of their respective independent claims. Thus, the Applicant asserts that claims 167-175 and 177-185 are allowable for at least the reasons provided above in support of claims 166 and 176, and such indication is respectfully requested.

Conclusion

Based on the above remarks, the Applicant respectfully requests reversal of the 35 U.S.C. 103 rejection of claims 166-185.

The Applicant hereby authorizes the Office to charge Deposit Account No. 21-0765 the appropriate fee under 37 C.F.R. § 41.20(b)(1) for the Notice of Appeal filed herewith, and the fee under 37 C.F.R. § 1.17(a)(1) for a one-month extension of time. The Applicant believes no additional fees are due with respect to this filing. However, should the Office determine additional fees are necessary, the Office is hereby authorized to charge Deposit Account No. 21-0765 accordingly.

Respectfully submitted,

Date: 02/26/2009

/Kyle J. Way/

SIGNATURE OF PRACTITIONER

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